



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 15, 2023)

Drafting Number: LLS 23-0029
Prime Sponsors: Rep. Ricks

Date: April 10, 2023
Bill Status: House Appropriations
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Bill Topic: SOCIAL EQUITY LICENSES IN REGULATED MARIJUANA

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill expands eligibility criteria for social equity licensees, expands the categories of marijuana accelerator licenses for which social equity licensees may apply, and requires additional incentives for social equity licensees and accelerator-endorsed licensees. The bill increases state revenue and expenditures and local workload on an ongoing basis.

Appropriation Summary:

For FY 2023-24, the bill requires an appropriation of \$167,538 to the Department of Revenue. The Marijuana Entrepreneur Fund is continuously appropriated to the Office of Economic Development. See State Appropriations section for detail.

Fiscal Note Status:

The revised fiscal note reflects the introduced bill, as amended by the House Business Affairs and Labor Committee and the House Finance Committee.

Table 1
State Fiscal Impacts Under HB 23-1020

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	\$175,725	\$139,521
	Centrally Appropriated	\$21,690	\$23,566
	Total Expenditures	\$197,415	\$163,087
	Total FTE	1.6 FTE	1.5 FTE
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

Under current law, retail marijuana store, cultivation facility, and manufacturing accelerator licenses are awarded to social equity applicants that meet certain criteria. Existing licensees can receive accelerator endorsements to host social equity licensees in these categories. Social equity licensees may also hold any regular marijuana license. The bill makes the following changes to the social equity marijuana program:

- creates an independent delivery license for social equity licensees that allows for purchase of marijuana and marijuana products for sale and delivery to consumers, beginning January 2024;
- adds transporter, hospitality business, and independent delivery licenses as accelerator marijuana licenses for which social equity licensees may apply;
- allows social equity licensees with a retail marijuana transporter license and a delivery permit to convert their license to an independent delivery license prior to January 2024;
- expands eligibility criteria for social equity licensees beginning January 2024;
- specifies that social equity licensees and accelerator-endorsed licensees may be eligible for incentives, which are determined by the Department of Revenue (DOR) through rule and may include a reduction or waiver of application and license fees; and
- requires the DOR to report annually to the legislature on the social equity program starting January 2025, including recommendations for social equity funding sources or license types that were developed by either a new or existing working group.

The bill also creates a program grant committee in the Office of Economic Development and International Trade (OEDIT) to review applications, select recipients, and determine award amounts for the existing Cannabis Business Grant program. OEDIT's director must appoint 15 persons to serve on the committee by September 1, 2023.

Background

Under current law, Colorado residents may apply as a social equity licensee if they meet the following criteria:

- resided for at least 15 years between 1980 and 2010 in an area designated as an opportunity zone, or as a disproportionate impacted area as defined in rule by the Marijuana Enforcement Division;
- the applicant or the applicant's immediate family was arrested for or convicted of a marijuana offense or was subject to civil asset forfeiture related to a marijuana investigation; or
- the applicant's household income in the previous year did not exceed an amount determined by the Department of Revenue (DOR).

As of January 2023, there are 84 active social equity licensees and 119 pending social equity applications. Fees for regulated marijuana licenses are set through DOR rule.

State Revenue

The bill minimally impacts revenue to the Marijuana Cash Fund in the DOR starting in FY 2023-24. The precise revenue impact has not been estimated.

Fee impact on marijuana licenses. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The bill may:

- increase marijuana fees and revenue to cover expenditures required to implement the bill;
- potentially decrease revenue from fee reductions as incentives for social equity licensees; and
- increase revenue from marijuana fees paid by social equity applicants utilizing expanded licensing options.

Actual fees will be set administratively by the DOR based on cash fund balance, program costs, and the number of marijuana licenses subject to the fee.

State Expenditures

The bill increases state expenditures by \$197,415 in FY 2023-24 and \$163,087 in FY 2024-25. Costs are in the DOR and OEDIT, and are paid from the Marijuana Cash Fund (see Departmental Difference) and Marijuana Entrepreneur Fund, respectively. Expenditures are detailed below and shown in Table 2.

**Table 2
 Expenditures Under HB 23-1020**

	FY 2023-24	FY 2024-25
Department of Revenue		
Personal Services	\$82,250	\$98,700
Operating Expenses	\$1,485	\$1,755
Capital Outlay Costs	\$6,670	-
Legal Services	\$76,133	\$38,066
Mapping Fees	\$1,000	\$1,000
Centrally Appropriated Costs ¹	\$19,821	\$23,566
FTE – Personal Services	1.1 FTE	1.3 FTE
FTE – Legal Services	0.4 FTE	0.2 FTE
DOR Subtotal	\$187,359	\$163,087
Office of Economic Development & International Trade		
Personal Services	\$8,187	-
Centrally Appropriated Costs ¹	\$1,869	-
FTE – Personal Services	0.1 FTE	-
OEDIT Subtotal	\$10,056	-
Total	\$197,415	\$163,087
Total FTE	1.6 FTE	1.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The bill increases workload for the DOR to implement changes to the social equity licensing program and handle an increase in applications for social equity and accelerator-endorsed licenses.

- **Staffing.** The DOR requires 0.8 FTE Compliance Investigator II and 0.5 FTE Statistical Analyst II. The investigator will conduct more complex licensing investigations based on new eligibility criteria, as well as handle an increase in applications and implement the new license. The analyst will collect data related to eligibility requirements and reports on social equity program activity. Costs include standard operating and capital outlay expenses and are prorated for a September 1 start date in the first year.
- **Legal services.** The DOR will require 720 hours (0.4 FTE) of legal services in FY 2023-24 and 360 hours (0.2 FTE) in subsequent years to support the DOR with additional rulemaking for the social equity program and an overall increase in administrative case work as a result of expanding the social equity program. Legal services are provided by the Department of Law at a rate of \$105.74 per hour.
- **Mapping fees.** The DOR uses maps created by the Department of Local Affairs (DOLA) to determine if social equity applicants reside in criteria-matching locations. Based on the current volume of social equity program activity, the DOR pays for each use of DOLA's maps. The DOR anticipates moving to a flat-fee model to accommodate the expanded eligibility criteria and increase in social equity applications.

Office of Economic Development and International Trade. The bill increases workload for OEDIT to staff a grant program application review committee. OEDIT requires 0.1 FTE Program Management I in FY 2023-24 only to support the committee by recruiting members, managing meetings, and assisting with application review and disposition.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Local Government

The bill may minimally increase workload for local licensing authorities that offer marijuana licenses to update local licensing regulations.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$167,538 from the Marijuana Cash Fund to the DOR, and 1.1 FTE. Of this amount, \$76,133 is reappropriated to the Department of Law, with 0.4 FTE.

No appropriation is required for OEDIT. The Marijuana Entrepreneur Fund is continuously appropriated to OEDIT.

Departmental Difference

Marijuana Cash Fund. The Marijuana Cash Fund is currently in a cash fund deficit of approximately \$4.0 million. While the DOR has the ability to adjust fees or make other programmatic adjustments, it has concerns about doing so given the current economic conditions in the marijuana industry, and requests a General Fund appropriation for this bill. This fiscal note assumes that a regulatory program must operate using a cash fund, and does not include funding from the General Fund.

State and Local Government Contacts

Counties	Economic Development & International Trade	Law
Municipalities	Public Health & Environment	Revenue